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Honorable Donovan W. Frank
United States District Court
724 Federal Building
316 N. Robert Street
St. Paul, MN 55101

Re: State of Minnesota v. CMI of Kentucky, et al.
U.S.D.C. File No. 08-CV-603 (DWF/AJB)

I am responding to the Plaintiff-Intervenors' objection to the scheduling of the hearing on the proposed Consent Judgment and Permanent Injunction. See Docket #181.

Plaintiff-Intervenors are well aware of the Source Code issue and matters relating to Source Code access. They have briefed various related issues and participated in several settlement meetings that involved detailed discussions regarding access to the Source Code.

Counsel for Plaintiff-Intervenors also regularly coordinate with a broad network of other lawyers representing defendants in DWI cases and petitioners in implied consent cases. The attorney who represents the amicus Minnesota Society for Criminal Justice (which opposed the prior State/CMI settlement) is part of that network. He also is counsel of record in both *Underdahl I* and *II*.

Plaintiff-Intervenors and counsel for the amicus are very familiar with the matters implicated by the proposed Consent Judgment and Permanent Injunction. In light of the urgency regarding resolution of access to the Source Code, *see, e.g.*, State's Memoranda of April 17, 2009 at 27-30 and May 15, 2009 at 4-7, the Court acted well within its discretion to schedule the hearing expeditiously. The hearing is scheduled in compliance with the Federal Rules of Civil Procedure, *see* Fed. R. Civ. P. 6(c), and the Court has the inherent discretion to modify the local rules in a particular matter. *See* Fed. R. Civ. P. 1; *Phoenix Global Ventures, LLC v. Phoenix Hotel Assocs. Ltd.*, 422 F.3d 72, 75-76 (2d Cir. 2005) (stating a district court has inherent authority to waive its local rules).

s/ **Alan I. Gilbert**

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